Cited as part of Strategy Two's "new" service offerings are security monitoring, cable TV networks, and long distance--all offered by other providers--as well as services for business and government such as electronic commerce, desktop managed services, on-line travel, and library services. Clearly the current market as well as the future which Ameritech describes to its investors is not one of innovation as much as it is imitation, and certainly it is not aimed at the majority of its customers. These are the residential consumers who not coincidentally will continue to have the fewest if any choices of local service providers among the various customer classes.

d. Diversification as a management distraction from core business and network needs

Another ratepayer concern about Ameritech Michigan's increasing numbers of activities and affiliates, is that these activities and priorities may be distracting Ameritech management from tending to the proper repair and maintenance of the core public switched network. Ameritech Michigan makes much of its dedication to being responsive to consumers' "demand" for "one-stop shopping". As many have observed, the ultimate in one-stop telecommunications shopping was the Bell System monopoly. Divesting the long distance, local calling, and equipment manufacturing monopoly was decidedly in the public interest and efforts to essentially restore it in the name of one-stop shopping should be rejected.

The management and consultants to such corporate giants as Mobile Oil and Sears (and many more) were convinced that the phenomenon of diversification and/or one-stop shopping was likewise an inevitably sound strategic goal to which enormous amounts of talent and revenue were channeled. They learned the hard way that the market (consumers) did not agree. Even electric utility enthusiasm for diversification in the 1980's was tamed by lackluster market performance.

Many a corporation has had to scramble unloading subsidiaries, divisions and diversified operations that turned out to have been damaging distractions to management's attention to its core business. It would appear that the companies which were least prepared for certain marketplace realities were those located in segments of the economy notorious for cartel pricing or less than vigorous competition. That pattern does not bode well for Ameritech, especially as noted in analyses of its disinvestment. Non Bell subsidiary operations other than cellular and Yellow Pages, have been performance "duds" that could probably not have survived the competitive marketplace but for the infusion of funds made available to them by virtue of their relationship to a monopoly.[35]

[35] *Patterns of Investment by the Regional Bell Holding Companies, An Examination of the sources of financing and the relative performance of the Bell Operating Company and the non-BOC RBHC businesses, (May 1993) and January 1996 Revision*, Economics and Technology, Inc.

Of greatest concern is the extent to which Ameritech management attention on diversification and sales has been a distraction from its attention to *Michigan's* core network and the quality of service it should provide *Michigan* customers. Public policy makers would do well to examine Ameritech's recent disinvestment in the network, the decidedly unimpressive performance of most of its non Bell operations despite staggeringly high funds and monopoly resources made available to them, and Ameritech Michigan's deteriorating service quality. One cannot help but conclude that these disturbing developments are intimately connected to Ameritech Michigan's panting push for diversification. That diversification is in turn inseparable from its goal of capitalizing on perceived potential profits from marketing one-stop shopping.

D. In a competitive market the incumbent should maintain or improve service quality: Ameritech Michigan has recently disinvested in the network and its service quality is in serious decline.

Frankly, the vast majority of Michigan ratepayers are not interested in how well Ameritech is serving customers in Hungary, New Zealand, Singapore or Japan. The customers in Monroe, Detroit, Hudsonville, etc., etc. are disgusted at the poor service they're getting in Ameritech's own back yard. At MPSC-sponsored public meetings held statewide in the fall of 1996, consumers showed up--and shouted out---their complaints, not only about unfair and exorbitant rates, but about the ever increasing headaches and frustration of trying to get decent service out of this monopoly local phone company. Only the incentive of getting into long distance might motivate Ameritech Michigan to improve.

1. Both the MTA and federal act identify the importance of service quality for all customers.

Quality of service is included as an express purpose of the MTA

> Sec. 101.
> (c) Restructure regulation to focus on price and quality of service... [484.2101] [emphasis supplied].

The Telecommunications Act of 1996 recognizes quality service as a fundamental right of all consumers.[36] Congress has also included an additional service quality commitment in the federal act, recognizing not only that all consumers have a right to quality service but directing that advanced telecommunications capability be made available to *all* Americans, so that they can originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.[37] InterLATA entry is the only incentive that regulators have at their disposal to help assure ratepayers that legislative commitments to service quality are fulfilled.

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[36] Sec. 254(k); with respect to competitors' express service quality rights, See Sec. 251(c)(2)(C.

[37] Sec.706. Yet revised quality of service standards in Michigan include no standards or measurements for data transmission and video, and substitute a vague and unenforceable measurement for noise related to power influence because of persistent Ameritech Michigan's failure to comply with the previous specific standard.

It is recognized that the FCC is unlikely to undertake any additional service quality standards responsibilities. Instead discretion will continue to be left to the states as to whether to adopt and enforce service quality rules. If so they must be on a competitively neutral basis. Thus, it is assumed that the states will continue to play the primary role in assuring service quality.[38]

In light of the decreased frequency with which that data will be made available from the FCC,[39] ratepayers look to state regulators to fill this void. It is inseparable from the consumer education role regulators can and should play as discussed below.

Unless consumers receive accurate and plain English explanations of what the service quality standards are, and independent verification of the accuracy of provider assertions of such performance, they cannot make meaningful and intelligent marketplace decisions. That information should be regularly made available by regulators. It would provide an incentive for

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[38] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 (November 8, 1996) and Erratum, FCC 96J-3 (November 19, 1996). In its discussion of service quality contained in Section IV, pars. 93-106, the Joint Board assumes that the states will continue their role and that the Federal Communications Commission (FCC) will not increase the performance data solicited.

[39] In its Order dated December 17, 1996, the FCC has significantly reduced the requirements previously imposed on price cap regulated carriers for submitting Automated Reporting Management Information System (ARMIS) Reports data. CC Docket No. 96-193, AAD 95-91.

improved performance by all carriers, and it would enable customers to better pursue accountability---all factors which would stimulate the very competition the legislation seeks to promote.

If residential customers had meaningful competition in the local market, Ameritech Michigan would probably soon come to see that consumer price and service quality are far more important to telephone customers[40] than a profusion of service choices, once dubbed "gee whiz" services by the Baby Bells in the years following divestiture. As auto manufacturers certainly understand, enchantment with accessories wanes very quickly if on a regular basis the engine doesn't start. Ameritech Michigan is so dazzled with its service option accessories that it apparently does not realize or does not care that its engine is falling apart and that customers are angry.

Instead of improving its commitment to service quality since passage of the MTA, Ameritech Michigan apparently has recognized that the bulk of its 5 million local subscribers will have no choice for local service for at least several years (and that others may never have a choice).

Network Disinvestment The Purpose section of the MTA makes clear that relaxed regulation and a streamlined process for rate

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[40] "Customer Care Special", *Telephony*, November 6, 1995.

setting and rate adjusting were to act as incentives "for increasing investment in the telecommunications infrastructure." Sec. 101. (d). If Ameritech Michigan were presently or imminently facing competition for its core business, it simply could not afford to neglect the network, yet it has disinvested in the network as discussed above.

2. Ameritech Michigan's deteriorating service demonstrates that it is not fulfilling that commitment to competitors, and even less so to residential customers.[41]

The increased service problems Ameritech Michigan consumers face include: long delays waiting for new service to be installed; repeated calls required before installation and repair arrangements are completed; large number of problems going undiagnosed and uncorrected; long delays entailed attempting to reach repair and business offices; calls interrupted with static on the line or interference from nearby radios; inability to even place a call because of increasing "fast busy" signals as

[41] An example of the disparity of service between customer classes is illustrated in the most recent FCC ARMIS reports for which a narrative analysis has been prepared. [3rd Q 1995]. It shows that on a nationwide basis, with regard to the measure of putting out-of-service lines back into operation, the LECs respond to the needs of their interexchange carrier customers within 5 hours; their business customers within 18 hours; and their residential customers within 26 hours! The five hour standard is what they can, should, and *used to regularly meet* in previous years. With respect to many of the standards, the fact that Ameritech Michigan is supposed to provide competitors with "the same quality as their own.." is of small comfort considering how poor service has become systemwide and evidenced by the complaint filed by AT&T against Ameritech Michigan for alleged service quality violations.
Case No. U-11240.

described below; inadequate information on telephone bills resulting in still more time-consuming inquiries, or resulting in charges for services the customer did not request, does not need, and perhaps cannot afford.

Evidence of Ameritech's serious quality problems is reflected in various reports, including those of the Michigan Public Service Commission.

> Ameritech Michigan's complaints increased 82% in 1995, due, in part, to a large number of complaints related to Repair and Maintenance. A series of summer storms went through the company's service territory, and it took as much as two weeks for the company to respond to some of the repair reports. Compounding the problem, the company down-sized its repair and service center operations and eliminated overtime pay for a period of time.[42]

In its most recent annual report to shareholders (March 1996), Ameritech apparently did not view it service problems as a trend but rather as an aberration which it had identified and addressed satisfactorily.

> Last summer, our service did not always meet customers' expectations for quality and speed-nor did it meet our own high standards. We have apologized to our customers and taken all the necessary steps to restore service to the high levels customers expect from Ameritech. In 1995, we added nearly 4,000 employees in customer service positions, backed

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[42] Customer Complaint Section and Consumer Information Section of the Michigan Public Service Commission, 1995 Activities, at p. 5. "A number of studies have found that only a small number of dissatisfied persons complain about unsatisfactory products or services." The MPSC reports for the period of January-September 1996 make clear that Ameritech Michigan's service quality problems are not decreasing. See also Table 29 of the March 1996 report depicting the sharp decline in Ameritech Michigan's construction budget.

> them up with new computer systems, and took other measures to get our service back on track and keep it there.[43]

A question has apparently been raised at the FCC as to whether in fact the storms were the problem, and/or whether the computers supposedly being relied on to solve the problem instead created or contributed to the problem.[44] For all the funds made available to Ameritech Michigan from rates and the deregulation of its depreciation, it is difficult to fathom why its network was so vulnerable. In any event, the problems were not an aberration.[45] They continue within Michigan and throughout the Ameritech region.[46]

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[43] *Ameritech Annual Report to Stockholders,* at 4-5. (March 1996).

[44] In its follow-up report to the one filed March 25, 1994 which covered data through the third quarter of 1993, the FCC Common Carrier report on quality of service (March 22, 1996) discussed data from the 3rd quarter of 1995. Having discussed seasonal peaks, increased regulatory complaints, and some declines that might be due to changes in the way the companies were reporting their data, the conclusion was that trouble reports merited continued attention. Discussing variations among companies it states at pp. 11-12, footnote 9,

> "Ameritech reports that it may have included troubles outside its regulated business or troubles that were not the fault of the company prior to 1994. Similar changes to remove certain classes of troubles being reported could explain some of the fluctuations in the data. Other causes for the fluctuation were not disclosed. No clear cause could be identified for recent outages; however, company procedural errors, conceivably associated with installations of new software, showed up in a few instances as being a significant factor."

[45] See January-September 1996 reports of the MPSC Customer Complaint and Consumer Information Sections.

[46] See, for example, *Citizens Utility Board v. Illinois Bell Telephone Company* filed before the Illinois Commerce Commission April 4, 1996 (the company's failure to meet service quality standards in Illinois and the resulting affect on the calculation

The increases incidents of "fast busy" signals may signal how the network is being degraded instead of upgraded as anticipated by the legislature. It is particularly distressing to realize that a relatively new development may even represent a regression in how the network serves customers. In an effort to cut down on the cost of copper, local exchange companies are increasingly using digital loop carriers (DLCs) in accordance with Bellcore's[47] TR303 DLC specification.

The DLC is essentially a remote toggle switch that can be configured to act as a concentrator. Instead of each customer having a dedicated private channel to the central office, the DLC "concentrates" customers in ratios that result in 4-10 customers, for example, essentially sharing one channel. The practical effect is that when one of the channels is in use, the next customer assigned by the concentrator to the same channel, will hear a fast busy signal when they try to place a phone call. This

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of the price cap formula is the subject of current proceedings before that commission.); *State of Wisconsin Public Service Commission vs, Wisconsin Bell*, Inc. Case No. 96 CV0407 (1995); *In the Matter of the Commission's Investigation Into Ameritech Ohio's Compliance With Rule 4901: 1-5-22 (D), Ohio Administrative Code, Concerning Answer Time Requirements*. Case No. 94-1863-TO-COI. This month the Ohio Commission staff felt compelled to terminate what had been extensive negotiation settlements and request a hearing date so as to proceed with the investigation of Ameritech Ohio's serious and diverse service quality problems.

[47] Bellcore (Bell Communications Research) is a research arm of the nation's Bell telephone companies.

shift to DLCs, is an example of the use of advanced technology in a manner that is directly at odds with the government directive that the public switched network is to be *improved*, not degraded.

Recent Survey of Ohio Customers Mirrors Problems Throughout the region. Service problems in Michigan are symptomatic of the behavior of other RBOCs as extensively described and discussed by the research arm of the National Association of Regulatory Commissions (NRRI).[48] The same NRRI team that produced the March 1996 report, was directed by the Ohio Public Service Commission to conduct an extensive customer survey of residential and business customers of Ameritech Ohio.[49] The results of that survey released in December 1996, were completely consistent with the serious nature and degree of problems that haunt the Michigan market.[50]

3. Recent increases in service quality problems are the product of earlier developments.

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48 *Telecommunications Service Quality,* The National Regulatory Research Institute, March 1996.

49 Ameritech customer dissatisfaction is often not reflected in the survey results and performance statistics the company publishes. This is because of the skewed manner in which the survey questions are framed and the questionable interpretation of performance standards used by Ameritech companies. On January 16, 1997, the Ohio commission staff and consumer advocate's office formally challenged the accuracy of such company data as part of the current investigation being conducted by that Commission.

50 "Survey and Analysis of the Telecommunications Quality-of-Service Preferences and Experiences of the Customers of Ohio Local Telephone Companies" Ray W. Lawton, Ph.D., Associate Director, The National Regulatory Research Institute. Prepared under contract for the Public Utilities Commission of Ohio (July 15, 1996; released to the public December 1996).

a. Ameritech's management shift away from engineering expertise and focus on sales and marketing.

Drastic Shift in Ameritech Management (1992-1993) Ameritech could once point with pride to the reputation it had earned as one if not the most service and network quality proficient among the seven RBOCs. See background ENDNOTE.

There was a dramatic change in Ameritech management in late 1992 and early 1993 with the departure of those in top management positions with engineering backgrounds, experience and a relatively consistent commitment to service and network quality. Their replacements were dedicated to sales and marketing as the top priority. There were those on Wall Street who cheered this shift of Ameritech's corporate culture from engineering to sales development, but consumer advocates and various regulators and staffs found this change disquieting, worrying about the signal this sent to those concerned about service quality. From the declining level of Ameritech Michigan's service, the cutback in construction, the disinvestment in the network, and the sharp cutback in personnel, it would appear that the worst of those fears have been realized.

b. The prospect of competition creates dual economic incentives for pulling back on service quality especially for the customers least likely to experience the benefits of local competition.

Additional factors beyond management shift of focus, help explain the deterioration of Ameritech service quality. Clearly Michigan's legislature, commission and ratepayers have respectively provided the incentives and the funds for an *improved* network and top quality service quality. Yet the very prospect of competition that fueled the MTA and various Commission initiatives (similar to actions nationwide) was used in an unintended and perversely ironic manner. The RBOC response to prospective competition has been to neglect service quality.

At play are various economic principles. The dramatic cutback in economic regulation of Ameritech Michigan embodied in the MTA, allows Ameritech Michigan to keep revenues accrued because of operational "efficiencies", even if those revenues are saved by cutting back on service. Second, and also in anticipation of competition, incumbent local exchange companies including Ameritech Michigan, are anxious to accrue maximum revenues now as funding sources for strengthening their competitive advantage. Unfortunately, cutting back on service quality is one of the fastest methods for obtaining such revenue.[51]

c. Ameritech Michigan's failing service quality hurts the very economic development that was a prime purpose of the MTA.[52]

Employers do not want their employees taken away from productive work place performance, distracted by time-consuming

[51] Baby Bells Face A Tough Balancing Act: Reputation for Service Is On the Line Amid Deep Staff Cuts, *Wall Street Journal*, 4 Jan., 1996,A2.

[52] Sec. 101(e)

and exasperating arrangements to establish telephone service or to obtain service repairs. Increasing numbers of businesses also need to rely upon the ability of their employees to telecommute, including the ability to make voice, data and facsimile communications from home without productivity diminished by delays or quality decline. The state's increasing participation in the global market demands that increasing numbers of employees who do not telecommute, nonetheless must be able to rely upon sophisticated telecommunications equipment in their home in order to check data and transactions being made in time zones on the other side of the globe.

Business decisions as to where to locate, or whether to relocate, are influenced by the quality of local telephone service in this state. Further, as stated above, Congress has directed[53] that advanced telecommunications capability be made available to *all* Americans, so that they can originate and receive high-quality voice, data, graphics, and video telecommunications using any technology. For these and other reasons, declining quality in local telephone service has a negative effect on the state's economic development.

MCF urges the MPSC to address this critical issue within the state and in its comments to the FCC. The legislative commitments to service quality in the MTA and federal act will be meaningless unless enforced. In light of Ameritech's continued

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[53] see the Telecommunications Act of 1996 Sec.706

defiance of the MPSC, only the authority the commission holds out for entry into long distance affords it any practical ability to ensure that the service quality commitment will be taken seriously. Not only is that the appropriate exercise of its regulatory power, it is precisely consistent with the spirit and substance of both laws.

IV. The competitive checklist has practical implications for residential ratepayers.

Obviously residential ratepayers have a strong stake in ensuring that there be full compliance with the checklist for all of the reasons already discussed. As to some of the specific checklist points, however, it would be easy to conclude that the infinite technical and economic details encompassed in the competitive checklist are of direct interest only to engineers and economists and are considered too remote from the practical day-to-day experiences of residential customers to be of concern. That is not the case.

In reality many of the issues commented on by other parties are precisely the practical nitty gritty details that can be significant in motivating longstanding monopoly customers to either switch or stay, if in fact a choice is even theoretically available. Delays associated with being listed with directory assistance; delays being listed in the directories; delays in having a new number assigned are all relevant to stifling competition.

It is also disturbing to learn, for example, that Ameritech Michigan customers who contact the company to obtain information necessary for switching to Brooks Fiber, often find themselves immediately engulfed by the sales fleet at Ameritech anxious to keep them on board even if that means making unfair and unfounded disparaging comments about the competitor. The very fact that Ameritech Michigan so boldly and routinely takes an inquiry from one of its customers posed in anticipation of switching carriers, and then immediately shares it with the sales team illustrates not only its unfair monopoly advantage but the very privacy and CPNI concerns that consumer advocates and public policy makers have been raising for years.

MCF would like to comment on but a few examples of residential and competitor parallel frustrations associated with the checklist.

A. Emergency Services[54]

Reliable access to emergency telephone service (E911) is also a critical public policy concern. Those responsible for health care delivery systems insist that one necessary method for

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[54] Item (vii) Nondiscriminatory access to emergency services, directory assistance and operator call completion services.

cutting health care costs is to increasingly shift from hospital to home care. That factor plus the swelling ranks of the aged population are but two illustrations that demonstrate that society will have a growing need to ensure that dependable E911 service will be available to all who must rely upon it.

Consistent with the public interest, convenience, and necessity, the state must ensure that an accurate data base is maintained. The state must further ensure that E911 emergency services are available with the same level of speed and accuracy regardless of whether wire, wireless, cable, or some other telecommunications technology is used; regardless of whether provided by an incumbent or competitive local exchange service provider.

Market forces create no incentive for an incumbent local service exchange provider to expeditiously update its data base to reflect changed information about customers who have elected to switch their service to a competitive local exchange provider. The City of Southfield's complaint illustrates why market forces are inadequate to protect residential ratepayers. On the basis of this unsatisfied checklist item alone, Ameritech Michigan's Submission for verification should be denied.

B. Number Portability/Dialing Parity

Both are essential tools for consumers desirous of competition. As discussed above, not only has Ameritech Michigan failed to abide by various MPSC Orders, it has sued to prevent them, and the dialing parity issue must still be resolved by the Michigan Supreme Court.

C. NID Experience illustrates shared frustration among customers and competitors.

The unbundled platform addressed in the competitive checklist incorporates unbundled network elements including the network interface device ("NID"). In his Affidavit at par. 62, Ameritech Michigan's Dunny describes the NID which it makes available to requesting carriers. It would appear from that description that competitors face the same frustration as residential consumers who must deal with Ameritech Michigan and its NID when the customer is trying to isolate the source of a problem, most commonly in conjunction with determining if there has been an inside wire problem. For no apparent engineering, security or legal reason, Ameritech Michigan uses a NID design that includes a pin in the bottom that must be removed before the customer (or competitor) can use the NID as intended. Instead one must buy a six dollar special wrench from Ameritech Michigan just to get at what any Allen wrench could accomplish but for Ameritech Michigan's exploitive design.

V. Additional Public Interest, Convenience & Necessity Considerations: Monopoly Revenue Streams Still in Place Must be Removed Before Long Distance Entry is Authorized.

A. FCC delays in halting LEC monopoly revenue streams do not promote procompetition.

Quite distinct from any language or responsibilities in the federal act, the FCC is seriously behind schedule in turning back RBOC monopoly revenue streams. It is unthinkable that at the starting gate of entering long distance competition Ameritech Michigan or any LEC would be allowed to be awash with extra money made possible by the collection of monopoly rates that are excessive and unfair.

1. excessive access charges

Interstate access charges should be decreased before long distance entry is allowed. For the first time ever those charges were raised last year (July 1, 1996). That increase was the result not of thoughtful regulatory review, but essentially by default because of the FCC's failure to act on the record before it. It is estimated that nationwide, interstate access rates are excessive by an amount of at least $15 billion annually.

Because Michigan intrastate access charges mirror the interstate access charges, Michigan regulator hands are tied and those intrastate access charges cannot be lowered though those rates, too, are excessive. As long as the RBOCs, including Ameritech, are allowed to collect and retain those monies, these funds are kept out of ratepayer pockets where they belong, and these funds would provide Ameritech Michigan with a particularly unfair competitive advantage if it were allowed entry into long distance. As Ameritech Michigan would continue to charge competitor IXCs with current access charges, it would have the opportunity and incentive to charge itself less (and thus offer lower long distance rates). Its rationale would be an assertion that the cost of providing access to itself is less.

2. adjusted FCC price cap formula

Before long distance entry is authorized the price cap formula by which Ameritech Michigan's interstate rates are set must be adjusted downward minimally through a lowered rate of return and increased productivity factor. The failure to finalize this docket is estimated to be costing consumers nationwide almost $2 billion.

B. Diversification engenders new concerns

Ameritech Michigan's ever expanding new service offerings to various non-residential customer classes raises issues of concern, some examples of which are discussed.

1. Expanded opportunities for Cross-Subsidization

Any discussion of general market conditions in Michigan must address the degree to which improper cross-subsidization is impeding competition. Each new competitive service brings additional opportunities to engage in improper cross-subsidization, whereby costs associated with those offerings are shifted to the rates of basic service customers who do not subscribe to them. When the customers of noncompetitive services are forced to absorb costs that should be borne by investors or the customers of those competitive services, competitors are put at a disadvantage and captive customer rates remain excessive.

Ameritech's track record for such improprieties is not encouraging.[55] Captive local ratepayers are the direct and indirect deep pocket for many activities having nothing to do with serving their needs.

> By shifting costs to the local phone company and profits to subsidiaries beyond a regulator's full view, Ameritech and other Baby Bells could subsidize foreign investment in New Zealand or China, or speculative land deals like the now bankrupt multimillion dollar plan by actress Kim Basinger to develop a tiny town in Georgia. (In fact, pension-plan funds, which are factored into [Ameritech] phone rates, were used to underwrite this loser.)[56]

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[55] 1. "Review of Affiliate Transactions at Ameritech Services, Inc.," performed at the direction of NARUC by the joint audit team of the Public Utilities Commission of Ohio and the Public Service Commission of Wisconsin. (May 1995) The Michigan Public Service Commission refused to cooperate with this audit.

Among the audit findings: the affiliate failed to provide sufficient written documentation to allow the audit team to analyze and substantiate to the audit team's satisfaction, its rationale for the apportionment of costs between the regulated and unregulated affiliate services; findings of improper billing of overhead costs; finding that all costs that were not listed in the Ameritech Cost Allocation Manual were allocated to regulated operations; various failures to bill nonregulated affiliates for development costs; incorrect charging of competitive services to the wrong account with the result that nonregulated activity was assigned to regulated operations; possible improper accounting treatment when employees of the regulated local phone companies were transferred to the affiliate.

2. The Wisconsin Commission staff in its audit of Ameritech corporate headquarters in 1989 found a host of similar problems.

3. Similar findings were included in the FCC Audit in 1991 which revealed that Ameritech, Southwestern Bell and BellSouth had failed to exclude lobbying expenses from rates as required. (In its findings the FCC found that lobbying expenses had also improperly been passed on to ratepayers in 1989.)

[56] See Attachment C, "They Don't Care. They Don't Have to. They're...THE PHONE COMPANY", Lawrence Budd, The 1995 Kiplinger Report.

MCF does <u>not</u> argue that Ameritech Michigan's entry into long distance should be barred because it could increase the opportunity and incentive for cross-subsidization. MCF does argue that entry should not be allowed until final rules are in place to minimize that risk; if necessary those rules must be applied retroactively to capture any ratepayer monies improperly expended on ACI; and the rules without adequate staff resources, meaningful record retention and record disclosure rules are meaningless and render the prohibition against cross-subsidization in the MTA and federal act incapable of being effectuated.

MCF calls on the Commission to recognize the threat of cross-subsidization as one of the most critical consumer issues of the federal act. Consumer advocates and regulators fought hard for the inclusion of Sec. 272's safeguards and the Commission is urged to communicate to the FCC the need for more comprehensive standards and a commitment to vigorous enforcement.

One cross-subsidization opportunity of immediacy is related to the access charges as discussed below. Upon entry into long distance, Ameritech Michigan is supposed to allocate joint and common costs among its local and long distance customers so that local customers do not subsidize any of its long distance operation. The concern is that Ameritech Michigan will not treat this allocation as a mandate, but rather as a matter of discretion not to be exercise. Such misallocation of costs would place Ameritech Michigan in a position of underpricing long distance rates in an uncompetitive fashion even as it results in local telephone customers in effect subsidizing the calls of long distance customers. This would result in precisely the anticompetitive behavior both the MTA and federal act seek to prohibit.

MCF's corresponding concern is that such action would go undiscovered and/or unpenalized. That concerns stems from a frustrated awareness that meager regulatory resources have been available, and scant fines imposed in the years even *before* the mushrooming of far flung activities in numerous new Ameritech divisions, affiliates and subsidiaries. And even *before* the many new responsibilities assigned to the FCC under the federal act, the General Accounting Office (GAO)[57] had reported on its extensive findings that the FCC simply did not have the resources necessary to track cross-subsidization, even as problems continuously surfaced. For example, just one FCC on-site audit uncovered $300 million that neither CPA audits nor FCC's reviews of the audits had found.[58]

What the Telephone Monopolies Fear from the Electric Companies, Consumers Fear from Them Both The RBOCs are in a particularly strong position to understand the significance of

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[57] "Telecommunications, FCC's Oversight Efforts to Control Cross-Subsidization" (GAO/RCED-93-94) February 1993.

[58] Id. at 2

strict structural and non-structural safeguards. In fact the RBOC witness testified[59] as to the importance of: fully separate subsidiaries with separate books and accounts, records and functions; restrictions on affiliate transactions; strict accounting standards; periodic independent audits; reporting requirements; and vigorous enforcement. There is a certain irony in RBOC testimony urging tough, specific and strictly enforced accounting standards against cross-subsidization. What was the occasion? Fear that as their potential electric utility competitors might soon enter the telecommunications market that as monopolies the electric companies would know how to use monies from their captive electric customers to subsidize their new telephone activities. Perhaps this is a telling variation of an old axiom, "It takes a monopoly to know what a monopoly is capable of," but certainly the recommendations of that RBOC testimony merit great weight as the product of insider expertise.

In this regard the FCC has only recently[60] begun the process of formulating the rules necessary to protect against cross-subsidization. Yet it is required within 90 days of a Sec. 271

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[59] Designated to testify on behalf of RBOCs, Herschel L. Abbot, Jr., general counsel of BellSouth, before the Subcommittee on Energy and Power and the Subcommittee on Telecommunications and Finance of the Energy and Commerce Committee of the U.S. House of Representatives. (July 29, 1994)

[60] FCC First Report and Order and Further Notice of Proposed Rulemaking. "In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended." (released December 24, 1996.)

application to determine whether the applicant is in compliance with Sec. 271 provisions and 272's Separate Affiliate safeguards. Thus, the very safeguards it would use as its measuring rod will not even be finalized within that 90 day period. Furthermore, nothing in the Submission or Application suggests that Ameritech Michigan would agree to the application of such rules retroactively. Yet that is a minimum approach that should be required so as to provide some assurance of necessary accountability. Anything less would render meaningless the prohibition against cross-subsidization that is expressly contained in the MTA and the federal act.

2. Questions raised about ACI activity to date

In docket UR-11053, the MPSC highlighted the public policy issues related to improper affiliate behavior. The record in this current docket suggests concerns about the propriety of ACI/Ameritech Michigan activity to date that highlights the need to have ACI and Ameritech Michigan's books carefully examined before long distance authority is granted. Although ACI is not even in business, according to Ameritech Michigan it has almost 500 employees; ACI has received what is characterized as a $90 million "loan" from Ameritech Michigan which was never reported as required; and ACI has already put state of the art equipment and materials in place. As stated earlier, the FCC has only recently begun the process of formulating the rules necessary to protect against cross-subsidization. Not only should entry into